

REMARKS

Claims 35-95 were previously pending in this application. By this amendment, Applicant cancels claims 38-43, 47-49, 64, 69-74, 80-81 and 94 without prejudice or disclaimer. Claims 35 and 66 have been amended. As a result, claims 35-37, 44-46, 50-63, 65-68, 75-79, 82-93 and 95 are pending for examination with claims 35 and 66 being independent claims. No new matter is added.

I. Interview

Initially, Applicant would like to thank Examiner Dawson for his courtesy in conducting a brief telephone interview with Applicant's representative, Mr. Norfleet, on June 15, 2005. During the interview, the Applicant inquired as to the grounds of rejection for dependent claim 49. No other subject matter was discussed. The substance of remarks made during the interview is incorporated in the remarks herein.

II. Allowable Claims

Applicant acknowledges the Examiner's finding that claim 81 would be allowable if rewritten in independent form to include all the limitations of its base claim. By this amendment, Applicant amends independent claim 66 to include the features of claim 81, which is hereby cancelled. As a result, claim 66 and claims 67-68, 75-79, 82-93, and 95 depending therefrom are believed to be in condition for allowance.

III. Withdrawn Claims

Applicant acknowledges that claims 57-65 and 87-95 were withdrawn from consideration in the Office Action. Applicant hereby cancels claims 64 and 94 as indicated above. Applicant expects that upon allowance of any generic claims, such as independent claims 35 or 66, that any of the withdrawn claims depending therefrom will also be allowed.

IV. Claim Rejections Under 35 U.S.C. §102 are Overcome

Claims 35-39, 48, 50-56, 66, 67, 79, 80, and 82-86 stand rejected as being anticipated by U.S. Patent No. 4,935,027 (Yoon). Claims 35-52, 55, and 56 stand rejected as being anticipated

by U.S. Patent No. 5,346,498 (Greelis). Claims 35, 36, 48, 51-53, 55, 56, 66, 67, 79, 80, 83, 84, and 86 stand rejected as being anticipated by U.S. Patent No. 6,139,520 (McCrory). Applicant amends independent claims 35 and 66 to overcome these rejections.

Independent Claim 35

Independent claim 35 is amended to incorporate features of dependent claim 49, which is now cancelled. As amended, claim 35 defines a surgical device comprising an elongate shaft with a proximal end, a distal end with an opening, and a passageway adapted to deliver the elongated element toward the distal end and out of the opening. The device also comprises an advancement mechanism located adjacent the distal end of the elongated shaft and adapted to move the flexible elongated element in the passageway, the advancement mechanism having a first surface to engage a first lateral portion of the flexible elongated element such that movement of the first surface moves the flexible elongated element out of the opening with force sufficient to puncture the tissue.

Greelis does not teach or disclose an advancement mechanism adapted to move a flexible elongated element in a passageway [and] out of an opening with force sufficient to puncture tissue, as now recited by claim 35. The system of Greelis is disclosed for moving an instrument, such as an endoscope that includes optics, proximally and distally relative to the inner catheter. Nowhere does Greelis teach or disclose puncturing tissue with the instrument. For at least this reason, claim 35 distinguishes Greelis.

Independent claim 35 distinguishes both Yoon and McCrory at least because neither of these references teach or disclose an advancement mechanism located adjacent a distal end. As discussed above, claim 35 is amended by incorporating the features of now cancelled dependent claim 49, which was not rejected over either Yoon or McCrory.

For at least the above reasons, Applicant respectfully asserts that the rejection of claim 35, and claims 36-37, 44-46, 50-63, and 65 are overcome. Accordingly, withdrawal of these rejections is respectfully requested.

Independent Claim 66

As discussed above, independent claim 66 is amended to include features of allowable claim 81. Accordingly, claim 66 is believed to be in condition for allowance. Claims 67-68, 75-79, 82-93 and 95 depend from claim 66 and are believed to be allowable for at least the same reasons. Accordingly, allowance of these claims is respectfully requested.

V. Objections to the Drawing are Overcome by New Figures 42 and 43

The drawings stand objected to under 37 C.F.R. §1.83(a). Applicant encloses herewith proposed new Figures 42 and 43 that show an advancement mechanism adjacent a distal end of an elongated shaft. Additionally, Applicant amends the specification to reference new figures 42 and 43. Applicant believes these figures address the objections in the Office Action. Accordingly, withdrawal of this objection is respectfully requested.


CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

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In the Drawings

Applicant encloses herewith "New Sheets" showing proposed new Figures 42 and 43 as discussed herein under the "Remarks" heading.